

#### § 204.4

#### 17 CFR Ch. II (4–1–97 Edition)

(1) A debt in which administrative offset of the type of debt involved is explicitly provided for or prohibited by another statute;

(2) Debts owed by other agencies of the United States or by any State or local Government; or

(3) Debts arising under the Internal Revenue Code of 1954; the Social Security Act; or the tariff laws of the United States.

(f) The procedures for administrative offset in this subpart do not apply to the offset of Federal salaries under 5 U.S.C. 5514.

##### **§204.4 Demand for payment—notice.**

(a) Whenever possible, the Commission will seek written consent from the debtor to initiate immediate collection before starting the formal notification process.

(b) In cases where written agreement to collect cannot be obtained from the debtor, a formal notification process shall be followed, (4 CFR 102.2). Prior to collecting a claim by administrative offset, the Commission shall send to the debtor, by certified or registered mail with return receipt, a written demand for payment in terms which inform the debtor of the consequences of failure to cooperate. A total of three progressively stronger written demands at not more than 30 day intervals will normally be made unless a response to the first or second demand indicates that a further demand would be futile or the debtor's response does not require rebuttal, or other pertinent information indicates that additional written demands would be unnecessary. In determining the timing of the demand letters, the Commission should give due regard to the need to act promptly so that, as a general rule, if necessary to refer the debt to the Department of Justice for litigation, such referral can be made within one year of the final determination of the fact and the amount of the debt. When appropriate to protect the Government's interests (for example, to prevent the statute of limitations from expiring), written demand may be preceded by other appropriate actions, including immediate referral for litigation.

(c) Before offset is made, a written notice will be sent to the debtor. This notice will include:

(1) The nature and amount of the debt;

(2) The date when payment is due (not less than thirty days from the date of mailing or hand delivery of the notice);

(3) The agency's intention to collect the debt by administrative offset, including asking the assistance of other Federal agencies to help in the offset whenever possible, if the debtor has not made payment by the payment due date or has not made an arrangement for payment by the payment due date;

(4) Any provision for interest, late payment penalties and administrative charges, if payment is not received by the due date;

(5) The possible reporting of the claim to consumer reporting agencies and the possibility that the Commission will forward the claim to a collection agency;

(6) The right of the debtor to inspect and copy the Commission's records related to the claim;

(7) The right of the debtor to request a review of the determination of indebtedness and, in the circumstances described below, to request an oral hearing from the Commission's designee;

(8) The right of the debtor to enter into a written agreement with the agency to repay the debt in some other way; and

(9) In appropriate cases, the right of the debtor to request a waiver.

(d) Claims for payment of travel advances and employee training expenses require notification prior to administrative offset as described in this section. Because no oral hearing is required, notice of the right to a hearing need not be included in the notification.

##### **§204.5 Debtor's failure to respond.**

If the debtor fails to respond to the notice described in §204.4 (c) by the proposed effective date specified in the notice, the Commission may take further action under this section or under the Federal Claims Collection Standards (4 CFR parts 101 through 105). The